IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 7004 of 2007(H)

PETITIONER:

SANTHOSH KUMAR.S., U.P.S.A.
LUTHERGIRI U.P.S.ARYANADU, RESIDING AT
THOTTINKARA HOUSE, LUTHERGIRI ARYANAD P.O.,
THIRUVANANTHAPURAM=695 542.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.P.K.MANOJKUMAR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION
(F) DEPARTMENT, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.

3. THE ASSISTANT EDUCATIONAL OFFICER,
NEDUMANGAD, THIRUVANANTHAPURAM.

4. REV.C.H.ALFRED, MANAGER, LUTHERAN
SCHOOL, THIRUVANANTHAPURAM SYNOD, CALVARY
LUTHERAN CHURCH, PEROORKADA, THIRUVANANTHAPURAM-5.

BY GOVT.PLEADER SRI.T.T.MUHAMOOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION 21/6/2007, THE COURT ON ON 30/07/2007 DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No. 7004 of 2007

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Dated this the 30th day of July, 2007.

J U D G M E N T

Petitioner in this writ petition is stated to be working as Upper Primary School Assistant in Luther Giri Upper Primary School, Aryanad, Thiruvananthapuram. He was appointed by the manager, Rev.C.H.Alfred, with effect from March 9, 2005. His grievance is that approval for his appointment is being denied for no justifiable reasons. Consequently he is also not being paid salary. The Assistant Educational Officer had refused to grant approval on the ground that petitioner's appointment was only for 23 days just before the closure of the school for summer vacation.

2. I do not propose to deal with the contentions raised by the petitioner in this case elaborately, since today I have disposed of W.P.No.4513/2007 relating to the dispute in the management. In my view this writ petition can be disposed of with appropriate directions to the authority concerned to take a decision in the matter, in the light of the judgment referred to above.

3. It is brought to my notice that petitioner has preferred Ext.P5 revision petition before the second respondent, Director of Public Instruction and Ext.P6 representation before respondent No.1, Government. The manager is also stated to have preferred Ext.P7 revision petition before the Director. The limited prayer is to issue a direction to respondent No.2 to take a decision on Exts.P5 and P7.

In the above facts and circumstances the writ petition is disposed of with a direction to respondent No.2 to consider and pass orders on Exts.P5 and P7 strictly on their merit and in accordance with law, and also in the light of the judgment in WP.No.4513/2007 and also the judicial precedents in Manager, St.Mary's H.S. v. Beji Abraham (2002 (1) KLT 406), Padmanabhan Nambiar v. Govt. of Kerala (1997 (2) KLT 725) etc. Needless to mention, petitioner and the manager shall be afforded sufficient opportunity to be heard before any orders are passed.

Petitioner shall produce a certified copy of the judgment along with a copy of the writ petition before respondent No.2 for compliance.

A.K. Basheer
Judge.

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WP. 17876/2007:

Petitioners in these writ petitions are stated to be working as Lower Primary School Assistants/Upper Primary school Assistants in some of the schools under the management of the Educational Agency, India Evangelical Lutheran Church, Trivandrum Synod. It is contended by them that they were appointed by the manager of the educational agency against sanctioned posts in regular vacancies. Their grievance is that their appointments are not being approved because of the management dispute and they are not being paid salary.

In WP.No.17876/07 petitioners have a grievance that their services were terminated by Rev.R.Vijayakumar, the Manager, without notice and without giving any opportunity to be heard. Petitioners contend that they had approached the District Educational Officer highlighting the illegal action of the manager, but no action has been taken so far.

The prayer in this writ petition is to quash Exts.P13 to P17 orders of termination and also to issue a writ of mandamus or such other direction to respondent No.2, District Educational Officer, to issue a direction to the Manager and the Headmaster of the school to permit the petitioners to continue as teachers. Petitions have submitted Ext.sP18 to P21 representations before respondent No.2 .

Writ Petition is disposed of with a direction to respondent No.2

to consider and pass orders on Ext.P18 to P20 strictly on their merit and in accordance with law, and also keeping in view the judgment rendered by this Court in WP.No.4513/07.

WP.15733/2007:

Petitioner in this writ petition is stated to be working as UPSA in Luther Giri U.P. School, Aryanadu under the Educational agency referred to above. According to him, he was appointed in the school on July 3, 2006. His grievance is that his appointment is not being approved . The order of the Controlling Officer rejecting approval has been challenged by the petitioner before respondent No.2 in Ext.P5 revision petition. The limited prayer is to issue a direction to respondent No.2 to take a decision on the said revision petition.

Writ Petition is disposed of with a direction to respondent No.2 to consider and pass orders on Ext.P5 revision petition strictly on its merit and in accordance with law, and also keeping in view the judgment rendered by this Court in WP.No.4513/07.

A.K. Basheer
Judge.

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